Docket SUA-11-01 An Appeal of Docket SU-11-01 Board of Supervisors April 12, 2011



Docket SUA-11-01 (Douglas)

- The Applicant, Mary Jo Ballator, currently operates a birdwatching exhibit at the Ash Canyon B&B, located 5255 E. Spring Road in Hereford, AZ. (Parcel No. 104-21-022);
- On February 9, 2011, the Planning and Zoning Commission voted unanimously (7 – 0) to legitimize the operation as a Nature Exhibit, per Section 607.31 of the Zoning Regulations;



Docket SUA-11-01 (Douglas)

- A neighbor, Arthur Douglas, appealed the Commission's decision due to concerns related to:
 - The status of the easement (private);
 - The impact to the neighborhood;
 - Emergency services accessibility; and
 - The health and welfare of the birds who frequent the site.



E BRUSHY OAK LN Project Site E MOUNTAIN VIEW F E PRINCE PLACER RD This map is a product of the Cochise County GIS Docket SU-11-01 (Ballator) Location Map

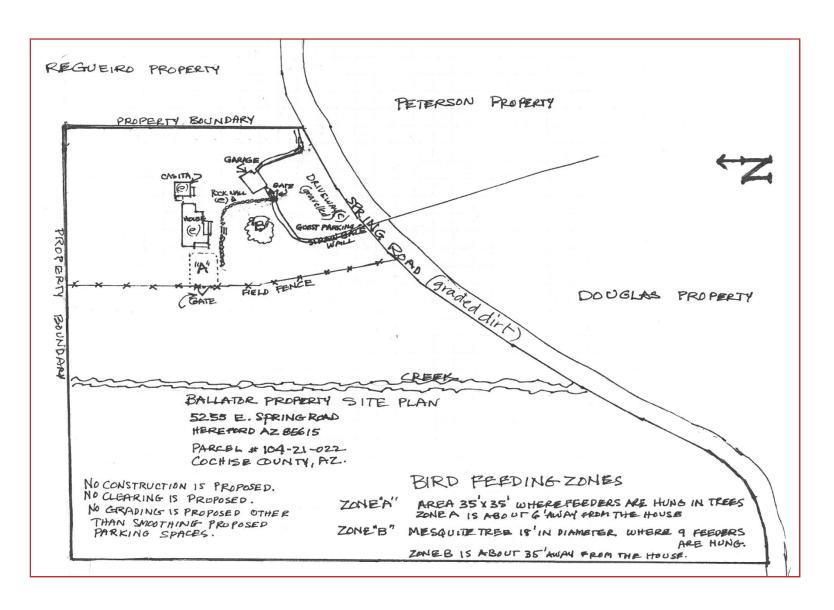
Location

The project site is at the terminus of Spring Road, lower Ash Canyon, in Hereford.





Site Plan



Site Photos – Ballator Home





Looking North

Site Photos – Exhibit Area





Looking West

Site Photos – B&B Casita





Looking North

Site Photos – Exhibit Area





West View

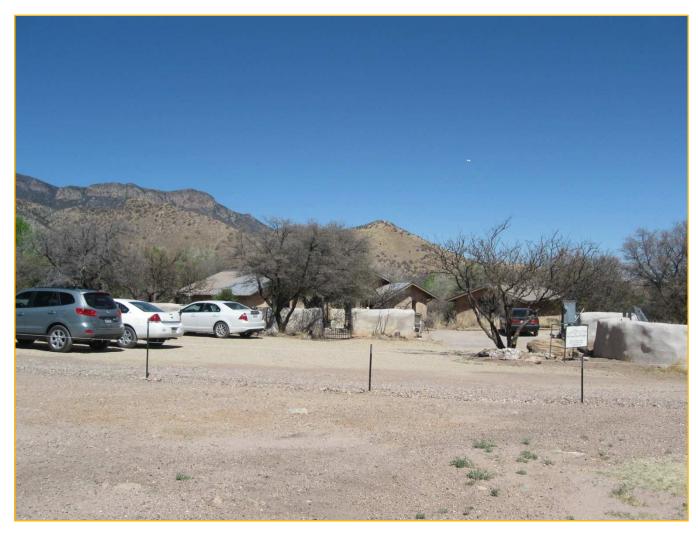
Site Photos — Entrance





Looking Northwest

Site Photos – Parking Area





North View







Northeast View

Site Photos – Spring Road





Looking East

Site Photos – Spring Road





Looking West

Nature of Appeal

 Private Easement Used for Commercial Access;

Emergency Services;

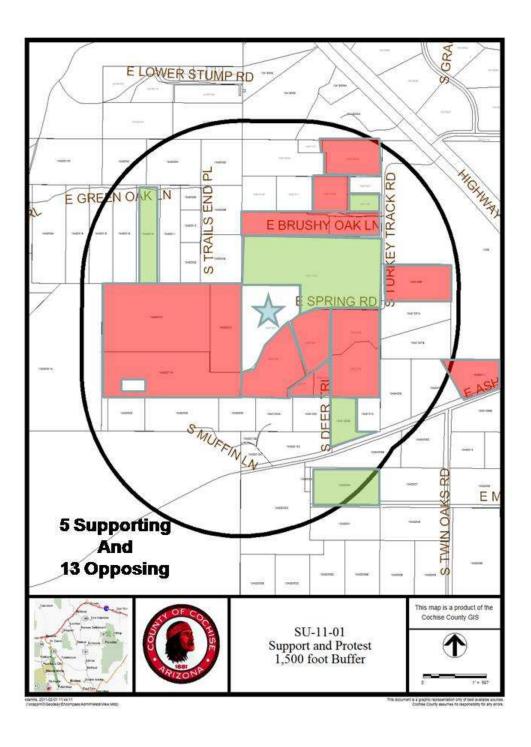
Wildlife Feeding and Welfare;

Residential Neighborhood Character.





Within the 1,500 foot buffer, 5 neighbors have registered support for the birding operation, while 13 neighbors support the appeal.





Factors in Favor of Granting the Appeal

- 1. The Appeal form is signed by 13 property owners from within the 1,500-foot notification area, all of whom oppose the birdwatching operation. Concerns expressed in writing include the condition of Turkey Track and Spring Roads, large vehicles accessing the site, disturbance of the neighborhood and of the residential character of the same, and concerns about deed restrictions prohibiting commercial activity on the property.
- 2. Although passenger vehicles make up most of the birding-related traffic, nature tourism services have been known to bring Econoline-class vans to the site. Larger passenger buses and RVs have also visited the site, along the narrow Spring Road travelway. It is likely that there will be occasional visits from larger vehicles to the site, and that it would be difficult if not impossible to completely restrict such traffic to the property. Condition #2, which the Commission imposed on the operation, would ensure adequate circulation and parking on the property.



Factors in Favor of Granting the Appeal (Continued)

2. The Applicant began landscaping site work on the property immediately after the Commission approved the Special Use, without first obtaining a permit, nor waiting for the appeal period to expire. The Applicant's website advertises two bird photography workshops during the month of April despite the fact that the business is not permitted at this time.

Factors in Favor of the Special Use

- On February 9, 2011, the Planning and Zoning Commission voted unanimously (7 0) to conditionally approve the Special Use;
- 2. With the recommended conditions, the birding operation would comply with each of the eight applicable Special Use evaluation factors (See Attachment B);
- 3. The Zoning District, Comprehensive Plan and Area Plan policies applicable to the property all support nature-based tourism;
- 4. The birding operation has been in continuous existence 2002 without any complaint from neighbors regarding the business itself nor the condition of Turkey Track or Spring Road; The Applicant voluntarily undertook the Special Use process;

Factors in Favor of the Special Use (Continued)

- The business is considered comparatively low-impact, one that can integrate with neighboring rural-residential uses provided the Applicant complies with Staff's recommended conditions.
- 6. The Commission imposed a condition (#2) on the operation, requiring the Applicant to develop a circulation and parking plan that would absorb vehicle-related impacts on the property to ensure the business activities harmonize with neighboring rural-residential uses to the greatest extent possible;
- 7. The Commission imposed a condition (#5) requiring Department and/or Planning Commission review of any proposed changes or expansion to the operation. No expansion of the operation would take place without a new public process;



Factors in Favor of the Special Use (Continued)

- 8. The Applicant has a Private maintenance Agreement in place, requiring basic maintenance along the Spring Road easement, much of which is already chip-sealed. The County maintains Turkey Track Road;
- 9. Five neighbors have expressed support for the project from within the 1,500-foot notification area; and
- 10. The operation has also received hundreds of letters of support from individual birding enthusiasts, nature and birding tour operators, ecologists, members of the local and national Audubon Society residents and nature tour operations. These letters indicate the importance of birding to the local tourism economy, as well as broad support for this operation in particular.



Recommendations

Based on the factors in favor of approval, staff recommends the Board of Supervisors uphold the Planning and Zoning Commission's ruling on Docket SU-11-01, and **deny** the Appeal.